

REMARKS

In the Final Office Action¹ and the Advisory Action, the Examiner:

- (1) rejected claims 1-2, 5-20, and 23-30 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0073467 to Heyns et al. (*Heyns*); and
- (2) rejected claims 3-4 and 21-22 under 35 U.S.C. § 103(a) as being obvious over *Heyns* in view of Official Notice.

Claims 1-30 are pending in this application, of which claims 1-30 are amended by this Amendment.

1. Rejection of Claims 1-2, 5-20, and 23-30 Under 35 U.S.C. § 102

Applicant respectfully traverses the rejection of claims 1-2, 5-20, and 23-30 under 35 U.S.C. § 102(e) as being anticipated by *Heyns*. *Heyns* fails to teach, or even suggest, each and every element of the claims.

In order for *Heyns* to anticipate Applicant's claims, each and every element as set forth in the claim must be found, either expressly or inherently, in a single prior art reference. See M.P.E.P. §2131. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. §2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236 (Fed. Cir. 1989). Here, *Heyns* fails to disclose, expressly or inherently, each and every feature recited in independent claims 1 and 16.

¹ The Final Office Action and Advisory Action contain a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action or Advisory Action.

For example, claim 1 recites, *inter alia*, “a cost reduction strategy tool that receives the cost levers, said strategy tool including: a generation module that *generates a cost reduction strategy for one or more of the cost levers*; [and] a linking module that *correlates the cost reduction strategy with corresponding ones of the cost levers*” (emphasis added). Claim 16, although of different scope, recites similar elements.

The Final Office Action alleges that *Heyns*’s VSIMT constitutes a cost business capability recommendation linking module because the VSIMT “allows a user to see the impact on future cash flows of specific operating strategies.” See Final Office Action, pg. 3. However, even if this allegation were correct, which Applicant does not concede, *Heyns* fails to teach or suggest a “generation module” or a “linking module” as recited in claim 1.

While *Heyns*’s VSIMT is a tool that allows the user to see the impact on future cash flows of specific operating strategies, (see paragraph [0068]), the VSIMT does not generate a cost reduction strategy for one or more of the cost levers or correlate the cost reduction strategy with corresponding ones of the cost levers. For example, a user in *Heyns* can select a “strategy” from the list of available strategies which are pre-defined and cover “most business decisions that a user will want to test,” such as, for example, an “Accounts Receivable Analysis.” See paragraphs [0070]-[0071]; Fig. 10. Subsequently, a user enters his or her own numbers into the model to test how the user’s strategy impacts future cash flows. Thus, even if *Heyns*’s “strategy” could constitute the claimed “cost reduction strategy,” which Applicant does not concede, *Heyns* still fails to teach or suggest generating “a cost reduction strategy for one or

more of the cost levers” or correlating “the cost reduction strategy with corresponding ones of the cost levers” as recited in claim 1. Instead, *Heyns*’s VSIMT simply tests user-created strategies that are unrelated to any received cost lever.

For at least these reasons, Applicant respectfully requests withdrawal of the rejection of claims 1 and 16. Further, Applicant respectfully requests withdrawal of the rejection of claims 2, 5-15, 17-20, and 23-30 at least based on their dependence on allowable claims 1 or 16, as well as for the additional features they recite.

2. Rejection of Claims 3-4 and 21-22 Under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 3-4 and 21-22 under 35 U.S.C. § 103(a) as being unpatentable over *Heyns* in view of Official Notice.

“The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements.”

M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” M.P.E.P. § 2143.01(III) (emphasis in original). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03. “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. M.P.E.P. § 2141.02(I) (emphases in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Claims 3-4 and 21-22 depend from independent claims 1 and 16, respectively, and therefore include all of the elements recited therein. As discussed above, *Heyns* does not teach or suggest at least “a cost reduction strategy tool that receives the cost levers, said strategy tool including: a generation module that generates a cost reduction strategy for one or more of the cost levers; [and] a linking module that correlates the cost reduction strategy with corresponding ones of the cost levers,” as recited in claim 1, similarly recited in claim 16, and required by dependent claims 3-4 and 21-22.

Additionally, even if the Examiner’s “Official Notice” that it is old and well know in the art to “provide hyperlinks for documents” and “cross-link documents containing related subject matter” (see Final Office Action, pg. 9) was proper, which Applicant does not concede, such Official Notice does not remedy the deficiencies of *Heyns*. Thus *Heyns* and the subject matter of the Official Notice, taken alone or in combination, fail to teach or suggest each and every element recited in independent claims 1 and 16, and required by dependent claims 3-4 and 21-22. Moreover, there is no motivation for one of ordinary skill in the art to modify the references to achieve the claimed combination. Accordingly, the Final Office Action has not articulated a reason why the claims would

be obvious to one of ordinary skill in the art. Thus, no *prima facie* case of obviousness has been established with respect to claims 3-4 and 21-22. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 3-4 and 21-22 under 35 U.S.C. § 103(a) over *Heyns* in view of Official Notice.

3. Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

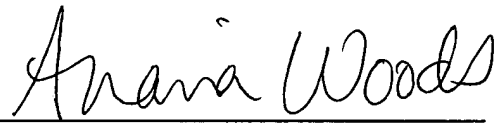
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: _____



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